

**TOWN OF RYE - SELECT BOARD
MEETING
Monday, November 28, 2022 – 6:00 p.m.
Rye Town Hall**

Present: *Chair Phil Winslow; Vice-Chair Tom King; and Selectman Bill Epperson*

Others Present on behalf of the Town: *Town Administrator Matt Scruton and Finance Director/Asst. Town Administrator Becky Bergeron*

6:00 p.m.

I. CALL TO ORDER

Chair Winslow called the meeting to order at 6:02 p.m.

II. NON-PUBLIC SESSION (1) per RSA 91-A:3, II (b) Hiring

At 6:02 p.m., Phil Winslow made a motion to go into Non-Public Session per RSA 91-A:3 II (b) Hiring. Seconded by Bill Epperson. Roll Call: Winslow – Yes, Epperson – Yes, King - Yes.

At 6:33 p.m., Phil Winslow made a motion to come out of Non-Public Session. Seconded by Bill Epperson. Roll Call: Winslow – Yes, Epperson – Yes, King - Yes.

6:30 p.m. RECONVENE PUBLIC MEETING

III. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Chair Winslow reconvened the public meeting at 6:38 p.m. and led the pledge of allegiance.

IV. ANNOUNCEMENTS

- The Rye Holiday Parade and the 400th Anniversary Candlelight Stroll is being held on Sunday, December 3rd starting at 3:00 p.m. The parade will start at Webster at Rye and continue to the Rye Common. The candlelight stroll will commence right after the parade and will conclude with the lighting of the holiday tree at Parsons Field.

V. PUBLIC COMMENT – (at the beginning of the meeting, for any comment by any Rye resident on any topic. Requested time limit, up to 5 minutes each person.)

- **Rosalie Drakatos, 64 Liberty Common,** noted that a meeting was held on November 14th addressing the Coakley Landfill, which was sponsored by the EPA and NH DES, along with the head engineers and project management team on the latest data on PFAS

contamination. Their data suggested that PFAS contamination in the Rye drinking wells are not coming from the Coakley Landfill. Therefore, the PFAS contamination is coming from the Rye landfills; Grove Road and Breakfast Hill. PFAS is most harmful when ingested and is linked to a wide variety of adverse health effects; such as, cancers, childhood obesity and behavior disorders, autoimmune disorders, reduced vaccination responses, allergies, miscarriages, asthma, cardiovascular disease, and high cholesterol in children and adults. The concentration of PFAS in drinking water is increased when it is boiled, in contrast to bacteria like coliform. The Town of Rye reports on the monitoring of the Grove Road Landfill in accordance with NH DES. The 2021/2022 reports by CMA Engineers show PFAS levels in exceedance at the landfill sampling sites. This year, there was evidence of PFAS at a sampling well site that was never detected before. A letter was also sent in August by NH DES to Garland Road property owners, who have a water supply well and are within 500 horizontal feet of the Grove Road Landfill, informing them of the PFAS and/or manganese groundwater contamination of the Grove Road Landfill. A water treatment system in discussion at the Rye Water District may treat the above along with the high iron and manganese levels; however, they're a long way from implementing such a complicated system, as Rye first is in desperate need of a new drinking water well for residents supplied by the Rye Water District. This does not fix the problem at the source, which is the contamination at the Rye unlined landfills. Has the Select Board ever reported at their meetings on the PFAS contamination at the landfills and drinking water well sites? Was there any communication to the public of the contamination at the landfill sites and drinking water wells, and its possible implications? Has it ever been reported in the Rye Newsletter? Should there be a discussion about remediation measures at the landfill sites?

- **Michele Jones, 425 Wallis Road**, commented that she is highly concerned about the two landfills, as well as the PFAS in the water. She would be very interested in hearing the Select Board's response to Ms. Drakatos' comments.
- **Steven Borne, 431 Wallis Road, for Rye Civic League**, noted that he cannot find the dates for filing of warrant articles on the website. He noted the dates of meeting minutes not posted on the website. The Planning Board is having a public hearing on December 6th. He has emailed the Planning Board Chair which was forwarded to the Planning Administrator, about getting people to the public hearing and letting people know what's relevant to them.

Mr. Borne continued that he still hasn't seen an update on Parson's Creek and the DNA results. He pointed out there are no financial sheets for the budget on the website for 2020, 2021, or 2022. The Town has received a letter from DRA addressing the tax rate. The letter should be available and he would like to get a copy. He pointed out that the meetings are hard to watch on livestream when there is so much background noise. He assumes the Select Board will be addressing better meeting space and improvements to the livestream. He asked that the information used in the tax rate setting be put on a spreadsheet and shown on one of the screens so the public can see the information. Mr. Borne noted that the Capital Improvements Plan (CIP) was not posted on the website before the CIP public hearing for people to review, so they could provide input. He

suggested having a planning meeting to address the funding of the CIP expenditures, and to discuss other financial plans for the Town.

VI. CONSENT AGENDA ITEMS – (to be discussed at the meeting only if pulled off the consent agenda by one of the three Selectmen.)

- A. The Rye Heritage Commission requests permission to accept and expend funds received from donations made in the amount of \$9,225.00
- B. Letter rec'd from Ted & Pauline Simeonov re: Zoning Ordinance Violation at 691 Brackett Rd.
- C. Beach Committee
 - 1. Joan Zofnass: Appointment as a member – email rec'd 11/23/22
 - 2. Recommendation letter rec'd 11/22/22 from Mary-Ann Sullivan, Chair

The Select Board pulled consent agenda items A and B for discussion.

- **Rye Heritage Commission** – permission to accept and expend donation funds

Selectman Epperson noted that the Heritage Commission has done a significant amount of work raising money, specifically for the signage initiative. He thanked the people who donated and acknowledge the fact that the Heritage Commission is really stepping up to secure some of these projects.

Motion by Phil Winslow to accept Consent Agenda Items A and C as presented. Seconded by Bill Epperson. All in favor.

- **Letter from the Ted & Pauline Simeonov** re: 691 Brackett Road

Chair Winslow noted that the Building Inspector has addressed this issue and has responded to the Simeonovs with a letter dated November 22nd.

Motion by Phil Winslow to accept Consent Agenda Item B as presented and described. Seconded by Bill Epperson. All in favor.

VII. DISCUSSION ITEMS

- A. **Chief Walsh – Appointment of Patrolman Zackary Madeiros** (*Motion required*)

Police Chief Kevin Walsh introduced Zackary Madeiros. Mr. Madeiros grew up in North Hampton and went to Winnacunnet High School. After high school, he joined the U.S. Army for four years and was honorably discharged in July 2022. Mr. Madeiros applied to the Rye Police Department and stood out as an outstanding candidate. Some of his true qualities that stood out consistently through his interview process was honesty and hard work, which is what is sought in a town employee especially law enforcement.

Selectman Epperson noted that the Select Board reviewed Mr. Madeiros' qualifications and resume. He is very well suited for this job. He did a really good job in the Army with very high marks.

Motion by Phil Winslow to appoint Zackary Madeiros as a Rye Police Officer. Seconded by Tom King. All in favor.

Zackary Madeiros was sworn in as a Rye Police Office by Town Clerk Donna DeCotis. The Select Board welcomed Officer Madeiros to Rye.

B. Energy Committee Community Power Update

Lisa Sweet, and Tom Pfau, representatives from the Energy Committee, submitted a memo to the Select Board giving them an update on community power. The Energy Committee asked the Select Board to allow them to submit the draft cost sharing agreement, energy risk management policy, rate setting and reserves policies to the Town Administrator and legal counsel for review. The documents are in the process of being finalized. It is anticipated that there will not be any big changes made and the Energy Committee is comfortable with the documents. A public meeting is being held virtually on December 8th, 5:00 p.m. to 8:00 p.m., to finalize the documents. Anyone who is interested in hearing what the policies do and how they were developed are welcome to join the meeting. Information on the meeting and how to join will be posted on the Town's website. The intent of the Energy Committee is to have all final documents signed in January. Once community power is in place, the public can still choose their own provider and will not be required to tie into this agreement. Essentially, there will be four products with different power mixes at four different rates. Once the Select Board chooses a product as a default for the Town, residences will automatically be opted into the default. Customers can change their plan to a different product from there. People who are on Direct Energy will need to opt into the program, as they will not be automatically enrolled. Only Eversource customers will be automatically enrolled. Further information about community power can be found on the Energy Committee's page on the Town's website. People may also connect with the Rye Energy Committee and ask questions through their email, which can also be found on the website.

Steven Borne, representing the Rye Civic League, suggested using the Rye Civic League Newsletter to explain the process and to keep residents updated monthly.

Mr. Pfau and Ms. Sweet agreed to work with Mr. Borne on putting information together to get it out to the public.

It was noted that the plan has been submitted to the Public Utilities Commission. It's expected that the plan will be reviewed on December 17th. Plans that have already been submitted by other communities have been approved. The Energy Committee is confident that this will be approved also.

C. Public Works Director – Credit Card Use at the Transfer Station

Public Works Director Jason Rucker noted that the Public Works Department and the Transfer Station are in the process of moving to credit cards only for any fees collected. Cash and checks will be phased out once the credit card system is put into place. It is anticipated that the charge system will be in place within the next four weeks.

VIII. CORRESPONDENCE

None

IX. NEW BUSINESS

None

X. OLD BUSINESS

A. Harbor Road Bridge Update

DPW Director Rucker submitted a memo to the Select Board giving a timeline that has taken place so far and the strategies that are in place for repair of the Harbor Road bridge. He reminded the Board that the Town will need to engage an engineering consultant for a design, bid, build contract for the bridge superstructure replacement strategy. As soon as a scope of work is received from the engineer, as well as the cost for the contract, he will provide the information to the Board.

B. CMAQ Grant

Vice-Chair King noted that the Town had submitted a letter of intent for the NH Department of Transportation Congestion Mitigation & Air Quality (CMAQ) Grant. The Town now has to decide whether they want to move forward with a January 6th date for submitting an application. The odds are not high that the Town would receive the full amount. Scott Vogel, NH DOT, suggested that the Town phase it so there may be a chance to receive leftover funds. The intent of the grant is to use it for the replacement of the sidewalks on Cable Road.

There was some discussion about whether the Town would be able to meet the application deadline, as an estimate would be needed for the work. There is also the issue of whether funds would be needed up front and how much time this would take from town staff. After discussion, it was agreed that Vice-Chair King would try to get a free estimate by the end of the week. If not, the grant application will be dropped at this time.

XI. SELECTMEN'S 2023 BUDGET WORK SESSION

A. Capital Outlay

- Public Safety Building – exterior painting
- Town Hall Building – weatherization
- IT – replacement of work stations, cyber security
- Planning – master plan, buildout
- Police Department – body cams
- Public Works – relocation of fuel island

- Public Works – culverts at Perkins Road
- Conservation – Pioneer Road parking lot
- Public Works – MS4 support

Total: \$652,694

Motion by Phil Winslow to approve the Capital Outlay in the amount of \$652,694 with the proviso that the \$45,000 for the Conservation Commission's parking at Pioneer Road would not be spent if N.H. DOT does not give permission for the curb cut. Seconded by Tom King. Vote: 3-0

B. Warrant Articles

Article A: To see if the Town will vote to raise the sum of two hundred thousand dollars (\$200,000) to be added to the Highway Heavy Equipment Capital Reserve Fund created in 1994. This appropriation is in addition to the operating budget. Majority vote required.

After some discussion, the Select Board agreed to table the vote on Warrant Article A for more information from the DPW Director on the replacement of vehicles and the current balance in the capital reserve.

Motion by Phil Winslow to table Article A for more information. Seconded by Tom King. Vote: 3-0

Article B: To see if the Town will vote to raise and appropriate the sum of one hundred thousand dollars (\$100,000) to be added to the Fire and Ambulance Vehicle Capital Reserve Fund, the purpose of which was amended by Article 15 of the 2018 Town Meeting. This appropriation is in addition to the operating budget. Majority vote required.

Motion by Phil Winslow to recommend Article B as presented. Seconded by Bill Epperson. Vote: 3-0

Article C: To see if the Town will vote to raise and appropriate the sum of thirty-five thousand dollars (\$35,000) to be added to the Municipal Buildings and Maintenance Expendable Trust Fund established by Article 11 at the 2007 Town Meeting under the provisions of RSA 31:19-A for the purpose of major repairs to municipal buildings. This appropriation is in addition to the operating budget. Majority vote required.

Motion by Phil Winslow to recommend Article C as presented. Seconded by Bill Epperson. Vote: 3-0

Article D: To see if the Town will vote to raise and appropriate the sum of fifteen thousand dollars (\$15,000) to be added to the Revaluation Capital Reserve Fund established by Article 24 at the 2020 Town Meeting pursuant to RSA 35:1 for the future

revaluations of the Town so that the assessments are full and true value at least as often as every fifth year. This appropriation is in addition to the operating budget. Majority vote required.

**Motion by Phil Winslow to recommend Article D as presented. Seconded by Bill Epperson.
Vote: 3-0**

Article E: To see if the Town will vote to raise and appropriate the sum of five thousand dollars (\$5,000) to be added to the Rye Public Library HVAC Capital Reserve Fund established by Article 12 at the 2016 Town Meeting under the provisions of RSA 35:1 for the purpose of replacing the Rye Public Library aging and inefficient current heating, ventilation, and air conditioning system. This appropriation is in addition to the Library's operating budget. Majority vote required.

**Motion by Phil Winslow to recommend Article E as presented. Seconded by Bill Epperson.
Vote: 3-0**

Article F: To see if the Town will vote to raise and appropriate the sum of three thousand dollars (\$3,000) to be added to the Grove Road Landfill Capital Reserve Fund established by Article 11 at the 1994 Town Meeting. This appropriation is in addition to the operating budget. Majority vote required.

The Select Board deferred Article F for further discussion.

Article G: To see if the Town will vote to raise and appropriate the sum of three thousand dollars (\$3,000) to be added to the Capital Reserve Fund for records restoration established by Article 16 at the 1990 Town Meeting. This appropriation is in addition to the operating budget. Majority vote required.

**Motion by Phil Winslow to recommend Article G as presented. Seconded by Tom King.
Vote: 3-0**

Article H: To see if the Town will vote to raise and appropriate the sum of one hundred five thousand dollars (\$105,000) to purchase a new one-ton truck with plows and materials spreader and authorize withdrawal of one hundred five thousand (\$105,000) from the Highway Equipment Capital Reserve Fund created in 1994 for this purpose. This appropriation is in addition to the operating budget. The article has no current tax impact.

**Motion by Phil Winslow to recommend Article H as presented. Seconded by Bill Epperson.
Vote: 3-0**

There was discussion about possibly setting up a contingency fund and/or an emergency management fund with the Select Board as agents to expend.

The Select Board reviewed two warrant articles brought forward by the Assessing Office, which deal with veterans' exemptions and tax credits based on new legislation. The first article is to ensure residents are still eligible for the five hundred dollars tax credit. The second article is to expand the definition of veteran to encompass active service members. The Select Board agreed that more clarification is needed on the warrant articles. The articles will be brought back to the Select Board with clarification at their next meeting.

XII. OTHER BUSINESS

A. Select Board Representative Updates

Tabled

B. Meeting Minutes

1. Meeting, Thursday, November 3, 2022, 8:30 a.m., Rye Town Hall

- Page 1, under the Sewer Budget it should read: **A large portion of the budget is for the payment of a bond in the amount of \$33,435.40., as part of plant upgrades in Hampton. The first year of bond payment is this coming year.**
- Page 5, under Beach Cleaning it should read: **The request is for 75% of beach parking ticket sales to be allocated to beach cleaning.**
- Page 13, under Other Business it should read: **DPW Director Jason Rucker requested a contract amendment for further bridge consultation with Hoyle, Tanner.**

Motion by Bill Epperson to approve the Bill Epperson to approve the minutes of November 3, 2022 as amended. Seconded by Phil Winslow. All in favor.

2. Meeting, Sunday, November 6, 2022, 1:30 p.m., Rye Jr. High School

- Page 4, 2nd paragraph, 3rd sentence should read: **Cross connection examples include: irrigation systems, improperly installed boiler; private well connected to a home that is on a public water system; faucet hose in a kitchen sink; and toilet tank refill line that sits below the water line.**
- Page 14, it should read: **Lindsay Beynon, 30 La Mer Rd., asked if the residents should be comfortable now drinking the water going forward.**

Motion by Phil Winslow to approve the minutes of November 6, 2022 as amended. Seconded by Bill Epperson. All in favor.

3. Meeting, Wednesday, November 9, 2022, 1:00 p.m., Rye Town Hall

Motion by Phil Winslow to approve the minutes of November 9, 2022 as presented. Seconded by Bill Epperson. All in favor.

4. Meeting, Wednesday, November 9, 2022, 2:00 p.m., Rye Town Hall

The following correction was noted:

- Page 3, under Recreation, 9th sentence should read: **Finding parttime staff is very difficult and people tend to come and go in that position.**

ADJOURNMENT

Motion by Bill Epperson to adjourn at 9:10 p.m. Seconded by Tom King. All in favor.

Respectfully Submitted,
Dyana Ledger

11-28-22 Consent Item B

Ted and Pauline Simeonov, Aleph LLC
720 Brackett Rd Tax Map 17 Lot 65

November 14, 2022

Select Board
Rye Town Hall
10 Central Road
Rye, NH 03870

RE: Action Requested for Violation on 691 Brackett Rd, Tax Map 17 Lot 34

Dear Selectmen,

We are writing to make you aware of a violation on 691 Brackett Road, Tax Map 17 Lot 34 and to request per RZO § 190-8.3., that you as the enforcing authority take action to remediate the violation and prevent further unlawful use. We have filed a written complaint with the Building Inspector dated October 27, 2022 but have received no acknowledgement that any action has or will be taken. The Building Inspector and his staff are already aware that permits and variances are not on file for this unlawful land use as they tried to locate them in the file per our request as of October 21st, 2022 and were not successful in producing them.

The property in question is in the Parson's Creek area, listed as impaired on the NH DES 2012 list of impaired or threatened waters. In fact, a past Parsons Creek Watershed Based Management Plan by FB Environmental shows the Parsons Creek tributary running right by the property's southern boundary where sampling station/contamination hotspot BCH15 is located. This property is on 9.36 acres, 8.363 of which consist of wetlands.

On October 5th, 2022 the ZBA granted to the owners Christopher and Susan Reaney multiple variances for this property (namely variances from §190-3.1.H.(2)(a),(f) &(g) for a barn 31.6', a deck 30.7', a retaining wall 69.2', a garage 57.9', a pervious driveway 38.4' and an impervious walkway 68.4' from the wetland and removal of one tree where 75' is required; and from §190-6.3.A for expansion of a barn as well as a special exception from §190-3.1.G(2)/3.1.H.2(f) for a driveway 38.4' from the wetland where 75' is required.) — ZBA Case #38a-2022 and 38b-2022.

Shortly after the hearing through communication with the town, we discovered an existing violation — the existing asphalt driveway and the cobblestone paver section of the driveway have been installed without proper permitting. There is a DPW permit from 2018 for installation of cobblestone pavers (the only permit on file) — note this is a condition for installation of a permeable driveway. A photo from 2018 on the town assessment database as well as on Google Earth shows that at the time a gravel driveway was in place. The permit explicitly states that it expires one year from date of issue. The asphalt sec-

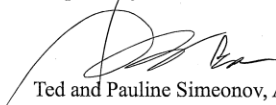
tion of the driveway with a footprint of 1,714 sq. ft. subsequently installed within the last couple of years is illegal on at least two counts — it was installed after the permit expired, but most importantly it is an impermeable surface within the 75' wetland buffer installed without a variance.

Per RSA 677:2 upon discovering this new information we filed a Motion For Rehearing with the ZBA and at their Nov. 2, 2022 meeting they suspended their order of decision with regards to variances and special exceptions pending further consideration at their December meeting. It has now become evident that within the course of the past few years the applicants have illegally altered surfaces within the 75' wetland buffer by constructing asphalt and cobblestone driveways without permitting and variances, and have thus negatively impacted the flow of water to surrounding properties, watercourses and town drainage systems. This year they applied for actual variances to create additional disturbance and were backed by their engineers' statements that the new development would not alter the flow of water and cause damage. However, the evidence provided by the engineers is invalidated by the fact that the flow of water had already been altered illegally by the applicants without oversight prior to this recent application. The past violations need to be rectified instead of rewarded with more relief.

The ZBA board did not have this information available at the time of the hearing and granted multiple variances without conditions allowing the applicants to add 1,657 sq. ft. of porous paver driveway as well as 1,494 sq. ft. of new impervious area and to create 3,073 of new square footage to the oversized dwelling already in place. This is currently a 4 bedroom, 2 bathroom house with a living area of 3,193 sq. ft. (total gross area 6,161 sq. ft.) The property also has a barn with a footprint of 2,060. In the process the applicants have also gained carte blanche while "restoring" their historic barn to completely demolish it if the restoration becomes "economically unfeasible."

It would not be legal to issue a permit for a variance or a special exception for a property where there is an existing violation of the ordinance. In light of the serious water issues that the town is facing, violations and expansion without oversight in the sensitive area of the Parsons Creek warrant urgent attention. We ask that you step in to restore order.

Respectfully,



Ted and Pauline Simeonov, Aleph LLC